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[*Note*.—**An asterisk (*) at the commencement of a speech indicates revision by the Member.**]

II.—GOVERNMENT BILL

THE MADRAS GENERAL SALES TAX BILL, 1959 (L.A. BILL NO. 6 OF 1958)—*cont.*

SRI M. SESHACHARIAR : Mr. Chairman, in welcoming the Bill, I wish to say a few words. In this Bill, there is a bright side containing certain aspects which have got to be appreciated. As a matter of fact, for most of the materials classified in the First Schedule to the Bill, they have to pay a tax of 2 per cent *plus* an additional tax of 1-9/16 per cent. That is a multi-point one. Now, in most cases—at page 36 of the copy of the Bill that has been supplied to us—we see that most of the materials which were subjected formerly to 2 per cent tax *plus* an additional tax of 1-9/16 per cent (which was multi-point) are now proposed to be subjected to a single-point tax. I find that in other cases also where it was a multi-point levy, it has been proposed to convert it into a single-point levy, in accordance with the recommendations of Dr. Lokanathan. That would be advantageous not only to the customer but also to the dealers concerned.

Sir, the other point that I would like to submit is this. Previously, after the Deputy Commercial Tax Officer passed an order, the appellate authority was the Commercial Tax Officer. The Commercial Tax Officer was both the assessing authority and appellate authority. Now, under the present Bill, the Commercial Tax Officer is removed from being the appellate authority. The whole question is going to the Commissioner—a post which they are creating now—and it goes by stages up to the High Court. Then there was provision in the previous Act for prior appeal to the Board and then to the High Court. Both these provisions are available and the men dissatisfied with the levy can right through go to the Commissioner.

There are other aspects which really may do a great deal of harm to merchants. I also think that some of the provisions may cause a great deal of hardship because we find the extraordinary provision which was not there in the prior Act. For a slight fault, namely, that of goods under transport not being covered by a delivery note or a bill of sale, the goods can be confiscated. There is a great deal of danger in having this provision. This is very dangerous because in certain cases goods are kept under suspense account and they are not brought into proper account. In those cases it will cause a great deal of hardship to the persons concerned. There are also other cases where in a transaction between a consignor and a consignee goods are not brought into the regular account but are kept under suspense account. There also there is the likelihood of the officers seizing those goods. Where payment of tax is sought to be evaded, some other kind of punishment would be proper than confiscation of goods. Perhaps, double the amount of tax normally due on the goods would satisfy the purpose in such a case. The provisions about composition of offences and penalty for wilful non-disclosure are very drastic. The penalty for non-disclosure appears 3-20 p.m.

to be too much. Even in regard to composition of offences, the provision for collecting Rs. 1,000 or double the amount of the tax recoverable is drastic and I do not think such a provision is found in respect of any other tax or as far as the other States are concerned.

The other new clause that is added is this. Normally we see in the business field people disposing of their goods or selling them on credit account. Very often the amounts are collected after two or three months or sometimes even after one year. But the provision made in this Bill is that if the tax assessed is not paid within the time specified, the assessee should pay an interest at half a per cent on such amount for each month for the first three months after the date specified and at one per cent on such amount for each month subsequent to the first three months. This is drastic because there are a number of merchants who sell things on credit and this will cause a great deal of hardship to them.

The other provision is this. It is one thing to say that they are finding it very difficult to collect the amount in certain cases. But to say that the creditor of the assessee must also be proceeded against is, to some extent, resonable because it has to be collected from the creditor. Even in cases coming before the Courts the amount has to be collected from the creditor. But here it is considered a charge upon the assessee. That, I think, is a disadvantage imposed on other creditors. Normally, if it is a tax due to Government, it has a prior charge over the decrees of many others. But here also to create a charge is unnecessary. It will create a sense of alarm in the minds of people who are made parties to the transaction, and the amount also is made a charge upon their properties. That is a disadvantage.

Then, I come to the vexed question about clause 59. Many of the Members have opposed it. As the Hon. Minister has himself admitted, it is not found in any of the Acts of other States. The point is this. The Hon. Minister was stating that it was taken from the Indian Tariff Act. The Central Government have power in that regard. They can levy a tax even at the time when the Legislature is not in session. They do not even issue an Ordinance. It is only by notification that the tax or assessment is varied. I can only state that we are only effacing the powers of the Legislature which is not usually done. I think it is only under certain conditions, whenever the Legislature delegates powers to other bodies or to a particular person, that this sort of thing is done. The method of it is described in the law. It is only in regard to the practical working of the law, in regard to filling up of certain particulars, that the delegation is made. The method is practically prescribed by the Legislature itself. But to take away the powers of the Legislature completely and to say that some other body would legislate on behalf of the Legislature, I think, may not be legal. The Hon. Minister must know more about it. But to seek the authority of the Indian Tariff Act, I think, would not be proper

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because it is an Act of 1934 which was subsequently amended. The original Act of 1934 was intended primarily for imports and exports. Subsequently, some other provisions were also added. But in the case of the present Bill, it would be a drastic provision to delegate such a power. That is a new provision that has been added now.

As against these disadvantages that I have mentioned and the new clauses that have been introduced, I submit, on the whole, in regard to evasion which is often complained of, the Bill has left out of consideration several places where the tax could be evaded. For example, there are foodgrains. This is a matter which the hon. Members and the Hon. Ministers have to consider carefully. The rate of levy formerly was two per cent. The Hon. Minister might say that it is now reduced to one per cent. In regard to foodgrains, one thing has got to be admitted. Whatever we might say, there is a great deal of evasion of tax in respect of foodgrains. As President of a marketing society, I could see this myself. Most of the people have to sell the paddy that is grown only through the marketing society and the marketing society only acts as a commission agent. Even in those cases we are not able to find out the real names of purchasers because most of the merchants are not prepared to disclose their names for fear of being traced by the sales tax authorities. Therefore, it may be that there are a small number of co-operative societies which pay the entire tax. But in most cases grain merchants do not disclose their names. I find a number of merchants purchasing paddy from agriculturists but they do not issue bills. They have no such account which could be definitely fixed upon as evidence of purchases made by them. Therefore, the point for consideration is only this. When the rate of tax is reduced to one per cent, the yield may be very little. Probably the Hon. Minister might think that it would yield much more. Why I say it would be much less is this. During the period of rationing, it was possible to collect the tax because we had perfect accounts. You could easily trace how much has been purchased and how much tax could be collected. But now it is so very difficult to find out all these things. Most of the merchants may try to evade payment of the tax. Therefore, there is less possibility of detecting the entire thing and collecting the tax.

With these words, I support the measure.

SRI MOHAMED RAZA KHAN : Mr. Chairman, Sir, I join hands with my esteemed Friend Sri Balasubramanya Ayyar in paying our encomiums and tributes first to the Hon. the Minister for Industries for the pains which he has taken right through the whole year, the fund of information that he has at his disposal, the way in which he conducted the deliberations of the Select Committee and also the way in which he was able to bring to bear his good and rich experiences on the consideration of this legislation. While I am on this subject, I feel that our appreciation is also due to the various officials who have helped him and helped him considerably as is evident from the day-to-day proceedings of the Select Committee

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Really the Hon. Sri R. Venkataraman deserves our congratulations. Even otherwise, I should say that there is one aspect or rather one characteristic of his which I really very much admire. My esteemed Friend Sri V. V. Ramaswami, whom we and, as a matter of fact, the Hon. Minister regard as an expert on sales tax might have observed one characteristic of the Hon. the Minister for Industries. We are very happy we have an expert on the Opposition on sales tax. Incidentally, I may say that we have too many experts on law and other matters. Well, the hon. Member might have noticed one characteristic of the Hon. Minister, namely, his tenacity. I do not use the harsh word ' obstinacy '. If he holds a point of view, that point of view should be accepted. But he had a way of doing things. With a smiling face, never losing his temper, he will put forth his case. Whatever be the line of argument, whatever be the suggestion, whatever be the persuasion, ultimately his smile wins over the opponent and what he said originally stands.

May I bring to your kind attention the real object in bringing in this comprehensive Bill? If the Hon. the Minister for Industries now in charge of sales tax had gone through the proceedings of the Legislative Assembly and the Legislative Council from 1948 onwards, he would have found how there was a persistent demand in both Houses for changing from a multi-point levy to a single-point levy. It was said that the merchants, trade, business associations and Chambers of Commerce were ready to pay single-point tax even at a higher rate than going through the difficult process of the multi-point sales tax. That is one aspect. The second aspect is that, time and again, the various hardships and difficulties or rather the harassment caused to the business community was brought to the notice of the Government. This was the main object
3-30 p.m. on the demand for a comprehensive Bill. Rightly did the Minister accept the proposition to bring forward a comprehensive Bill. Not only he accepted the demand, but he even went to the length of appointing an expert (Dr. Lokanathan) to go through the whole sales tax question and submit a Report. Of course, as was said by many a Member, Dr. Lokanathan has produced a very valuable document, valuable not only for our State but also for the other States. I am not now saying anything in any spirit of criticism. I might say that the Minister in charge used Dr. Lokanathan's Report to the best advantage. After all, it is not the personal interest of the Minister that is involved. It is only to fill up the coffers of the Government that this Bill has been brought forward. I agree. He has used Dr. Lokanathan's Report to the maximum advantage. Fresh from his trip to the U.N.O., having faced many bigger personalities, he had the capacity to use Dr. Lokanathan's Report wherever it suited him, and where it did not suit him, he forgot it completely. Small people like us were rather in a very disadvantageous position. I am just trying to state how the Minister was anxious that as much revenue as possible should accrue to the Government by means of this new legislation. He kept Dr. Lokanathan, if I could use that word, in complete abeyance,

when his Report did not suit him. But when it suited him, his Report was brought in every minute. When it did not suit the Minister, Dr. Lokanathan was forgotten for hours. If I am not digressing, I may say, now that the Madras Government are going to pass this legislation, I will not be surprised if other States seek the help, advice and assistance of our Minister for Industries in framing their sales tax law, so that they may also increase their income from this sales tax. This is a compliment to our Minister which I am trying to place on record. Both the Minister for Industries and the Minister for Finance, when they have said with all the sincerity at their disposal that they are committed to the Second Plan, cannot afford to take risks. They have to spend a lot of money. Recently they increased the allowance to their Non-Gazetted Officers by Rs. 5, which means an expenditure of rupees 175 lakhs per annum. This is a basic factor before them. True, they were not prepared to make drastic changes which some of us might have found necessary. We had some sincere feelings in trying to make some changes just as the Ministers too on the other side had. But the Minister gave an assurance not only in the Select Committee but also on the floor of the other House that, after watching the results accruing out of the present sales tax legislation for two years, the Minister for Finance and the Minister for Industries would surely try to make the necessary changes and give relief as far as possible. But, Sir, it is only an assurance and not a commitment. Our Ministers nowadays are very careful in giving assurances.

SRI A. M. ALLAPICHAI : What is the difference between the two?

SRI MOHAMED RAZA KHAN : It is for you to interpret, from the legal point of view. Therefore, a sort of assurance was given that they would surely change the position. Many hon. Members are aware that when once a tax is levied—no doubt it may be a temporary measure, it may be an expediency, it may have been levied for a particular year just to meet the deficit of that year—that tax becomes a permanent one later on. We know from experience that all taxation measures have got a tendency to become permanent. A measure may start at first as a temporary measure. It may be a measure of expediency. It may be for a particular year. The Minister for Finance may say in his Budget proposals, either while introducing the Budget or in replying to the Budget debate, 'Well; it is only a temporary measure; I cannot help it; the deficit is so much; I have to find the money to cover the deficit; therefore, for this year we must levy this tax'. I am only trying to say that when once a tax is levied, it becomes permanent thereafter. In my limited experience of the Legislature for eight or ten years, I have never known of any reduction in any tax. It may be that under the sales tax law, the Government give exemption here and there, which might involve a few thousands or a few lakhs of rupees. Now that an assurance has been given, I am

sure the Government, as a whole, or the concerned Minister, if the Government really find that they are getting much more than they expected (or if I could use the expression ' warranted '), would come before this House and give relief to the business community.

On the question of multi-point levy and single-point levy, my esteemed Friend Sri V. V. Ramaswami has bestowed a lot of attention. He said that the Minister had put the multi-point levy at two per cent. The Minister had the alternative of either a single-point levy at a heavy rate or a multi-point levy at two per cent. May I draw the attention of the Hon. Minister to the fact that every measure of tax brings some windfall to Government? He may just remember that the sales tax, which went on progressively increasing from 1939 from one-fourth per cent to one per cent in 1948, was raised to 1-9/16 per cent, that is, quarter anna per rupee. The conversion of the old coinage into the naya Paisa coinage was really a windfall to the Government of Madras. May I draw your kind attention, Mr. Chairman, to the fact that from 1-9/16 per cent, the Government raised the tax to 2 per cent? They had a very good argument—a convincing argument—that they had to think in terms of naye Paise and that there was no point in having 1-9/16 per cent. They said, " instead of saying 1-9/16 per cent, we shall have it as 2 nP." But the difference between the two is 25 per cent increase. This is not a small difference. From nearly 1½ per cent we have increased it to 2 per cent. This is the background of the sales tax.

Reference has been made by many a Member to the salient points in the Bill. As regards the tax on food, I know how Members feel strongly. While the Minister had all sympathy in regard to the question of giving relief to perishables and foodgrains, he rather chose to stand by the advice tendered by Dr. Lokanathan that all commodities should pay tax to Government. But when it came to a question of the rate of tax, the Minister chose to make it one per cent instead of adopting the recommendation of half a per cent made by Dr. Lokanathan. He showed some concession in raising the taxable limit to Rs. 30,000. I do not think it would be possible for the Government to reduce the tax from one per cent to half per cent. It is no use dreaming that there will be a reduction in tax. It is not possible. (Interruption by Sri A. Gajapathy Nayagar.) I take things as they are. Unless the hon. Member has so much of influence to persuade the Government to reduce the rate, I do not think the Government will reduce the percentage. I think that the Government could at least raise the limit from Rs. 30,000 to Rs. 36,000 or more, so that a good number of people in the trade may not come within the purview of the sales tax legislation. At best they can exempt persons with a turnover of Rs. 36,000 or Rs. 40,000 from this sales tax.

Then, Sir, reference has been made to the evasion of tax. This is not a new thing. I feel that this Bill has gone a long way in tightening up the working of the sales tax legislation, and I am

sure that every Member is one with the Government in seeing that evasion is put an end to and put down with a stern hand. No one should have any sympathy for those traders who collect the tax from the people but do not pay it to the Government. This legislation, I am sure, will work in such a way that we may have the satisfaction of saying that the Hon. Sri R. Venkataraman has done well to prevent evasions of tax. As far as evasion of tax is concerned, he has succeeded and succeeded to a great extent. This is a very good thing. I am sure that the entire sympathy and support of the House is there for the Government so far as the prevention of evasion is concerned.

There are other important features also in the Bill. Reference was made by the Minister to the separation of appellate functions from the assessment functions, and the constitution of independent sections. I am sure with these changes in the present system, the legislation will work very well with regard to the collection of every pie that is due to the Government. It may also be possible for the Minister for Industries to come forward later on to give relief. On an honest calculation, if a few more crores of rupees are got—I am not sure now what amount of revenue the Government would get—I hope the Hon. the Minister for Industries will come before this House or the other House and say, ' Well; I am getting much more revenue than expected, and I have come here now to fulfil the promise made some time in the month of February 1959 '.

SRI V. V. RAMASWAMI: Meanwhile, the Third Five-Year Plan would have come in.

SRI MOHAMED RAZA KHAN: Sir, as far as these proposals are concerned—I mean the proposals that emanated from the Select Committee—at one stage, I had my own doubts that the Hon. Minister, intelligent man as he was, might have reserved something for the Legislative Assembly so that he might say, after taking into consideration the discussions that took place in the Assembly, that he would agree to give some relief here and some relief there. In spite of the criticisms and suggestions made on the floor of the other House also, he has said, ' Well, I am here, I am going to satisfy you and that too by giving some reliefs.' He has given some relief in the case of an unknown commodity, palmyra fibre, which is known only in the district of Tirunelveli and nowhere else and some ' chekkus ' and that too as a result of thousands of telegrams received from the concerned people. These two commodities have been a little fortunate in that respect. I think the other provisions have been accepted as they emanated from the Select Committee. I do not find many changes made by the Assembly in the Bill as it emanated from the Select Committee.

3-40 p.m.

Sir, I do not want to talk much. I just want to refer to one or two very important matters. It is not my intention, Sir, to waste your time and the time of this House by referring to small matters

such as that the Government should reduce the tax to 2 per cent in the case of certain articles and to 1 per cent in the case of certain other articles and so on. In that strain, we can go on talking for two hours and even more. That is not my intention at the present moment. It is all right for politicians to argue in that strain. Well, Mr. Chairman, I say I shall take 3 minutes but take 10 minutes and even 15 minutes at times. But, I have no idea of doing that just now. I just want to make reference to a few important points. That is all.

I wish to refer to hides and skins. The Hon. Minister also made a reference to them. At that time, I was not very sure of the facts, and so, I did not make a mention of that matter. I did not want to argue the point with the Hon. the Minister for Industries without knowing the facts. Now, he said that some change had been made and he also referred to the rate of tax in this connexion. Might I tell him that this industry is very peculiar? In that industry, the raw materials are purchased, converted and exported to the other countries. Ninety to 95 per cent of these are exported to foreign countries. Unfortunately, our Government or the people who export these have practically no control over the sale or auction of these things in the foreign countries. They are, unfortunately, at somebody's mercy. I am, therefore, requesting the Hon. the Minister for Industries to take up the matter with the Government of India and stress the need for finding out ways and means to see that the sales take place in our country rather than in some other country. Unless something is done in this respect, we will have to be at the mercy of those people. So far as hides and skins are concerned, there is no sellers' market but there is only the buyers' market. When the Hon. the Minister for Industries said that this industry was in a very good position and so could afford to pay the tax, I have to submit, I could not agree with him. Even an increase of quarter per cent or half per cent will affect the industry considerably. I know many traders and merchants in this industry had their fingers burnt because of so many factors and so many handicaps. No doubt, the Hon. the Minister for Industries is a very capable and able lawyer, a very good politician and also a very good debater. He possesses all these qualities. But, he has never been a businessman. So, unfortunately, he cannot know the difficulties of businessmen. In spite of his capacity in the other fields, I am afraid, because of his lack of experience in business, he is not able to appreciate these difficulties. Even though the rate of levy may be one per cent or two per cent, the effect on the commodity, particularly as it is an exportable commodity, will be great. I find the Deputy Chairman is looking at me very keenly. He may make some point if he wants, in the course of the debate. I request the Hon. Minister to make a thorough and clear examination on the presentation of these facts now. He will surely do well to see that some relief is given to this industry. If he could completely abolish this tax, it is well and good. Just because I have made these points, I do not wish the Minister to stand up and say, 'Well, Mr. Raza Khan has made these points.

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So, I give complete relief to this industry.' I do not want him to do that. Let him carefully study these aspects and then come to some decision.

There is one other aspect. My hon. Friend Sri Balasubramanya Ayyar, with his legal acumen, dealt with it at considerable length. It is with reference to clauses 17 and 59. I do not know whether our esteemed Friend Sri Patanjali Sastry, with all his legal experience, is going to talk on all matters or is going to confine his remarks to this aspect. Not that I wish to commit him to any particular line of argument. He may talk on all aspects. The other day, you may remember, there was a discussion, and the Hon. the Finance Minister was here then, about the fundamental point relating to delegated legislation. No doubt, the Party is electing the Ministers and they are responsible to the elected representatives. They have got a majority but, unfortunately, a very huge majority. In spite of that, it was argued whether it was in the fitness of things or whether it was constitutionally right on their part to take too much of these powers. I think there was a good deal of discussion between the Hon. the Minister for Finance on the one side, who is also our Law Minister, and a very important, great luminary, Sri Patanjali Sastry on the other side. Now, I ask whether the Government are right in taking so much of power under clause 59 which says, ' the Government may by notification change, add to, alter . . . '. Of course, it may be said that there is the proviso which says that a Bill should subsequently be introduced in the Legislature and that it should become law within a period of six months or so. The whole question is this. The Hon. the Minister for Industries with his experience in the Central Parliament has dealt with this subject in his own able way and tried to draw an analogy for the Sales Tax Bill with the Indian Tariff Act. I, for one, with my little experience can categorically and emphatically say that there is no analogy between these two Acts. So far as the Central Act, the Tariff Act, is concerned, it is a different question altogether. That Act levies a sort of duty, so to say, on certain goods. In their case, it is no doubt necessary to take steps to see that the merchants and businessmen do not corner the goods. But, so far as the sales tax enactment is concerned, there is nothing of that kind. Knowing the business technique to some extent, we know there was no case of the merchants and businessmen cornering the goods in any way. So, I can emphatically say that there could be no relation between these two enactments. The Tariff Act of the Central Government is quite different from the Sales Tax Act of this Government. The purposes and objects of these two enactments are different and there is nothing in common between these two. Of course, the Hon. Minister took great pains to explain the Tariff Act at some length. I am afraid he is not on very strong and sound grounds so far as this aspect is concerned. But accustomed as he is to argue things in a nice way, he has argued the point. However, the fact remains that there cannot be any relation between these two enactments. In spite of his convincing arguments, I fail to be satisfied that there can be any such analogy as drawn by the Hon. Minister. The very power which

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is inherent in the Legislature must be retained with it. In the case of Money Bills, there are certain procedures which have to be followed. Now, by a simple process as is contemplated in clause 59, which they have very cleverly introduced I should say, the Government are taking very great powers. Even yesterday, I raised this point. Suppose, for argument's sake, I put it this way. In the Budget proposals for the coming year, which the Government may be submitting to the Legislature next month and which may take effect from April or so, suppose there is a deficit to the extent of Rs. 2 to 3 crores. Will the Finance Minister give effect to certain taxation proposals straightway in this State where the tax burden is the maximum and where almost a saturation point has been reached so far as taxation is concerned? They do not have any other source of revenue to tap. Therefore, by an easy process, the Government can raise the rate of levy from two per cent to three per cent. It
3-50 p.m. may look simple on paper. But what are the implications? It is really confronting the Legislature with a proposal. The notification will be made and the reactions of the Members and the public will all be ignored. They will be of no practical value. Once the notification is issued, all our discussions become useless. It is fundamentally wrong for the Government to assume powers which they should not. Of course, they have a huge majority and one argument they may advance is : ' If we do anything wrong, throw us out '. How is it possible to throw them out when they have such a huge majority? It is a question of constitutional propriety. We should not give the Government so much power, a power which is not inherent in the Government but is inherent in the Legislature. I do not want to say anything more on this point. I am in entire agreement with what my esteemed Friend, Mr. Balasubramanya Ayyar, has said and I leave it to other Members with legal experience to say more on this point, because I do not have legal knowledge.

Sir, in conclusion, let me say whatever we have said was actuated by the desire on our part that the Act should work well and that evasion should be checked. The merchant class as a whole is anxious that it should be free from harassment. I hope the Government will see to this and I am confident that if the Government are able to get much more than they expect, they will fulfil their promise to exempt as many commodities as necessary from the levy of sales tax.

DR. T. V. SIVANANDAM : Mr. Chairman, sales tax has come to stay. It has not only come to stay but is going to be imposed on every article that is found in the world. The Government have now come forward with single-point levy in respect of 63 articles given in the list. I hope, Sir, this list will be enlarged whenever necessary. I find in the list ' cinematograph films and other accessories '. But I do not know why X-ray machinery and accessories are not put in the list. I would request the Hon. Minister in charge of the subject to look into the matter and see that X-ray films and accessories are placed under single-point levy. Of late, I have found that some of the X-ray Institutes are asked to pay sales tax on the pictures they take. After all, it is not the X-ray films that are being sold.

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Properly speaking, we should not give the X-ray films to the patients. We are expected to give only the findings in the X-ray films and the charges are for consultation and the opinion that we give. Such being the case, I do not find any reason why these do not come under single-point levy. Incidentally, I would request the Hon. Minister to see that X-ray Institutes are taken away from the purview of the Sales Tax Act.

Regarding the medicines—coloured mixtures—and the tablets that are being prescribed by the doctors, I find these are subject to sales tax in some of the districts. Things of this sort we know, should not be taxed. About 90 per cent of these are being dispensed by the doctors and given free. Therefore, dispensaries attached to clinics of doctors should not come within the purview of the Sales Tax Act. The Indian Medical Association has represented the matter several times to the Government and I am very sorry to say that the Government have not been able to understand the points it has made. I have, however, no objection to sales tax being levied upon chemists and druggists. Just as in X-ray Institutes, here also the doctors in private clinics give only advice on consultation and the money they get is only for such advice and not for the medicines they dispense. I hope the sales tax authorities will be given suitable instructions in the matter.

Secondly, we see several people are evading this tax. Proper action has to be taken against such people. They should be properly punished. But I am afraid small merchants and petty traders with very little turnover are affected. They are teased and harassed by the sales tax officers. Of course, there is a certain amount of evasion on the part of dealers but the sales tax officers, like Income-tax Officers, themselves judge the turnover of the merchants and assess them to tax. I cannot understand why it is being done like this. Of course, proper accounts have to be maintained. But how can small merchants pay and maintain a separate clerk for maintaining accounts? It is very difficult to have a separate clerk for this purpose. Hence, I request the Government to see that the interests of small merchants who do not get huge profits are protected. Oftentimes, I hear that the merchants are prepared to pay any amount of sales tax but they do not want to be harassed and teased. I am surprised to find why they should come forward to pay sales tax. Are they really paying sales tax? They are only collecting the tax from the consumers and paying it to the Government. They are only collection agents. Therefore, if my Friend Mr. V. V. Ramaswami says that merchants are prepared to pay the sales tax, I do not find there is anything there except that they are prepared to collect it and pay it to the Government. It is not as if the merchants pay it out of their profit. They pay what is collected from the consumers. Therefore, instead of saying that they are prepared to pay, if the hon. Member says that they are prepared to collect the tax from the consumers and without evading or hiding the amount collected, pay it to the Government, I can understand. 4 p.m.

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Then, Sir, we should not torture the merchant class in the process of collecting the tax. I have a soft corner for them. (Sri V. V. Ramaswami : Thank you.) The prosperity of this country and this State, to a very great extent, depends on the traders also. Of course, there might be some black sheep among them who may try to evade paying the sales tax collected. I can illustrate how tax evasion takes place. Suppose there is a company at the State level, called 'A'. That company has got its own agents at the district level. Again, under the district level there are several branches. In the districts and villages, cash bill of the company 'A' alone is issued, thus evading the tax at two or three stages. It is up to the officers to catch hold of these merchants. If they do that, they will be discharging their duties properly. Instead of doing that, they catch hold of small merchants and tease them. That should not be done.

Sir, this sales tax is going to be a great burden on the consumers. Today the tax may be at 2 per cent. Very soon we are going to have our Third Five-Year Plan. The Government may require more money for the execution of schemes that might be included in the Third Plan. Therefore, the Hon. Minister in charge, to raise the additional resources required for the implementation of the Third Plan, might surely raise the rate of tax, as was pointed out by the hon. Member Sri Mohamed Raza Khan. He will not say : We are going to give some remission of tax'. We are bound to have more and more of these taxes. But I would say there should be a limit to taxing the poor consumers. The merchants also must be honest and pay up the tax collected. I know most of them are honest. The officers of the department unnecessarily suspect them. If they want to check the accounts, the officers can call for the books and find out what tax has been collected. Instead of doing that, they send for the merchants several times and the merchants are made to sit under the shade of the greenwood trees in the compound for a number of hours and days. Where there are no shelters, they are even made to wait in the hot sun and spend the entire day in the office when they should normally be attending to their business. I want the officers of the department to show greater human sympathy towards the merchants. Even the clerks in the department have got the power to enter any merchant's shop and seize the books. The books so seized are taken away to the officer and kept there for some months. They are not returned quickly. The merchant is, therefore, forced to keep another book for writing up his accounts. If he does that, the Sales Tax Officer accuses the merchant of maintaining two sets of accounts. That kind of thing is abhorring. The merchants who would otherwise be engaged in their trade, on account of the teasing and harassment by the departmental officers, are not able attend to their normal work, and so, they try to evade paying the tax. If this should continue and if the merchants are not treated humanely, trade would not survive in our country Repeatedly the Hon. Minister was requested to instruct the officers to show more sympathy to the merchants. The departmental officers are calling themselves servants of the people. But I do not

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think that they behave as such. Let them be more humane and decent in their dealings with the merchants. Then only the merchant community will survive. Otherwise, we will be destroying them and indirectly destroying ourselves. I would, therefore, again request the Hon. Minister, even if it be necessary for the officers to seize the books from the merchants, to instruct the officers to deal with the merchants in a more humane and sympathetic way and do the thing as quickly as possible, causing the least trouble to the merchants.

Now, these officers, we find, are going round collecting money for the Small Savings Scheme. These officers are compelling the merchants to pay up a certain quota for them. Certificates are bought by particular people. I found out the reason. They are getting 1½ per cent . . .

THE HON. SRI R. VENKATARAMAN: May I ask the hon. Member, being a responsible Member of the Legislature, whether he has reported against any such officer to the Government?

DR. T. V. SIVANANDAM: Sir, it is very difficult to give instances because the concerned merchants would be caught. Actually these things are happening in my very town and the merchants say so. The Commercial Tax Officer comes and asks the merchants to contribute to the Small Savings Scheme. Even if a merchant had already contributed something to the scheme through the Revenue Divisional Officer, the Commercial Tax Officer demands his quota. Then the Road Transport Authority demands his quota also. The poor merchant has to pay three times, once to the Revenue Divisional Officer, then to the Road Traffic Authority and then again to the Commercial Tax Officer. This is so because there is a commission given on the collections made by the officers. I request the Government to see that the merchants are not unnecessarily burdened like this. Merchants themselves won't come up and say that this thing is happening. But it is still happening. The merchant who does not contribute anything is not obliged. The merchant who contributes to these schemes, gets all sorts of benefit. The other man gets into all sorts of trouble with the Commercial Tax Officer. The Commercial Tax Officer obliges the merchant who gives the most. It is no use asking for concrete instances. Instances we can give. If we give an instance, will the Government safeguard the interests of the merchants? The Government may assure that they will. But in practice it will never happen. The scheme should not be entrusted to the officials. Collections for this scheme should be made by the co-operatives and they should not carry any commission. If the officers were told that collections made by them would not carry any commission, it would be all right. I am sorry the Hon. Minister should demand of me to bring to his notice specific cases. There are any number of such cases occurring all over the place. I would request the Hon. Minister to look into all these and see that the merchants are not very badly teased. I want the Government to give definite instructions to the effect that if instances of teasing

and harassment are brought to their notice not by the merchants but by responsible people, severe action would be taken against the officers concerned and that they would be punished. Also at the same time, if there is evasion of tax by the merchants, they must be properly dealt with.

Lastly, I would appeal again to the Hon. Minister that X-ray films, X-ray Institutes, dispensaries and clinics attached to doctors should be exempted from the levy of sales tax.

Thank you, Sir.

4-10 p.m. * SRI A. M. ALLAPICHAI : Mr. Chairman, Sir, I wish to make one or two suggestions. Clause 30 of the Bill gives the Government power to appoint an Appellate Tribunal consisting of a Chairman and two other members. The Chairman should at least be a District Judge and, to that extent, it is all right. But, Sir, the other two members need not belong to the legal profession but they 'may' belong to it. The proviso to explanation in sub-clause (3) (iv) says—

'Provided that, if any case which comes up before a single member (who is not the Chairman) or a Bench (of which the Chairman is not a member) involves a question of law, such single member or Bench may, in his or its discretion, reserve such case for decision by a Bench of which the Chairman shall be a member.'

So, only one member has legal knowledge, and when a question of law comes up, it could be referred to him only. The other two members need not necessarily be lawyers. What I wish to say is that, fortunately or unfortunately, the only profession that is most undefended is the legal profession. The lawyers are defending the whole world except themselves. My Hon. Friend Sri Venkataraman will bear me out when I say this.

MR. CHAIRMAN : They defend each other.

* SRI A. M. ALLAPICHAI : Sir, I wish to make a suggestion in regard to this matter. When we have got hundreds and thousands of experienced lawyers, what is the meaning of the Government trying to ignore that class of people, especially when questions of law have to be decided by the Tribunal? Of course, it is provided that one of the members should be a Judicial Officer not below the rank of a District Judge. But what about the other two members? They can say that a lawyer should have at least five or ten years' experience as the case may be. For everything, there is an expert. Even for little things, there is an expert. Especially decision on a matter concerning the interpretation of law points does require expert knowledge. Therefore, I wish to say that whenever a Tribunal is constituted and whenever questions of law have to be decided, it is the imperative duty of the Government to see that the members of the Tribunal belong to the legal profession. I think that it has become almost a habit nowadays to ignore this class of people. The Government have also ignored them. If I am wrong in saying so, I will really feel very glad to hear it. But the fact is that that

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section of the people are being ignored. Sir, it is only that section of the people that are the greatest possible supporters of democracy and only in their hands democracy will be safe. I am saying this very seriously because the Hon. the Leader of the House is also a lawyer.

SRI V. V. RAMASWAMI : They can do and undo things.

* SRI A. M. ALLAPICHAI : Not like merchants.

My hon. Friend Dr. Sivanandam has made out a good case. It rather appears from the several speeches of hon. Members that the class most affected by this Bill is the merchant class. But it is not the case. I must be a little frank in this matter. As a matter of fact, the people who are affected by it are the poorest people in the country. They are the consumers. I do not worry about myself and other hon. Members of this House but it is the poor man that is mostly affected by it. The merchants are in the nature of collecting agents and they collect some money. Please excuse me for saying this. Of course, I have also got so many friends and relatives who are merchants. Perhaps they collect money and keep a major portion for themselves and give only a small portion to the Government. It is happening like that. But they complain about harassment and corruption. Please excuse me if I tell you bluntly that for all these things, merchants alone are responsible. If they are firm and say, ' Because we are quite correct in our dealings, whatever may be the harassment, we are not going to part with any money by way of gratis', them everything will be all right. After all, they are also our people. My hon. Friend Dr. Sivanandam said that we must sympathize with the merchant class. Our merchant class are responsible for so many endowments and charities. Even to-day they are doing those things. They are the most generous people. But the fact remains that they themselves are responsible for harassment and corruption. For instance, they bluntly say privately, " What does it matter if we give Rs. 10,000 by way of gratis if we earn one lakh of rupees? " So, if they are firm, everything will be all right. Then only the whole business community will be all right and then only the whole official set-up will be all right. Therefore, let us not mince matters.

Then, there is another point to be considered. I want to draw the attention of the House to the proviso to clause 3 of this Bill. It says—

' dealers dealing exclusively in one or more of the goods enumerated in the foregoing clause except foodgrains, rice products, wheat products and milk and whose total turnover for a year is not more than thirty thousand rupees . . . . '?

Does the word ' whose ' qualify ' dealers '?

THE HON. SRI R. VENKATARAMAN : I will answer it in my reply.

* SRI A. M. ALLAPICHAI : There is some defect somewhere.

THE HON. SRI R. VENKATARAMAN : I would like to know what the defect is.

* SRI A. M. ALLAPICHAI : I think the word ' whose ' should qualify ' dealers '. Otherwise, it may lead to some doubt or mistake. No doubt, there is the word ' and '.

SRI K. BALASUBRAMANYA AYYAR : The word ' whose ' does not refer to dealers.

* SRI A. M. ALLAPICHAI : It must refer to ' dealers '. It is not grammatically worded.

4-20 p.m Sir, now my Friend the Hon. Sri Venkataraman said that we were in the middle of the Second Plan and that we could not take risks. That is true. I think that is correct. Sir, when we introduced Prohibition, we did so—for what purpose?—because we thought at that time that our people suffered on account of drinking. Apart from the moral or ethical aspect of Prohibition, the one thing which influenced us very much was the suffering of our people on account of drinking. People drank and spent all the money they earned. So, our object in introducing Prohibition was to relieve the suffering of our poor people. There is no doubt about that. But now, Sir, sales tax on foodgrains and things like them affects mostly our poorest people. If you make some kind of investigation, you will know it. Suppose the price of rice is high; it is sold at Rs. 1-4-0 a measure or so and then you charge sales tax on that. That may be all right because rich people are affected. But on ragi and such other things which the poorest among the poor are eating, you levy a tax. You say you have to meet the expenditure on the Second Plan. On the one hand, we say that we want to raise the standard of living of our people. On the other hand, what do we see? How can we raise the standard of living of the people with these taxes? Even the poorest family, I think, every month pays some ten rupees by way of taxes. I am not exaggerating. It is no exaggeration. If I exaggerate, please correct me. Even the poorest family pays Rs. 5 to Rs. 10 by way of sales tax. Now we have given an increase of Rs. 5 to our Non-Gazetted Officers in their emoluments. That Rs. 5 is taken away by this tax. I do not find fault with you. What I say is this. Please think over the matter. It is a matter which we have to think over. Even from the point of view, apart from others, of revenue, it should not affect our poor people. We can tax people who can afford to pay. But why should we tax persons who are not able to pay? You will admit very frankly that millions of our people are unemployed and are without work. Therefore, Sir, we must be very careful in matters like that. As the hon. Member Mr. Raza Khan has put it, after one or two years, when Government find that the income from the other taxes is quite all right, they must come forward boldly and say, "Well, we are not going to have the tax on foodgrains.'

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SRI T. P. SRINIVASAVARADAN : Mr. Chairman, the Report of Dr. Lokanathan and the Sales Tax Bill are very interesting to read. If one goes through the Schedules and also through the Report, one finds that there is no article in this world, even necessaries, which have been exempt from this tax. We find these taxes, then local taxes, imperial taxes, Corporation taxes, and perhaps hereafter taxes by the panchayats also. Certain articles are taxed not at one point, but at a number of points, and that is the painful conclusion that one comes to. The Government have to tax, I do agree. But they have not made a distinction between the necessaries of life and other articles—they may be essential, though not very essential—and luxuries.

Sir, if we study the objectives of Dr. Lokanathan and if we see what he had in view, we find, as he has put them succienctly, they are three objectives. One is that whatever reforms he suggested, they should not involve any loss in the current level of the State's revenues from sales tax. Sir, the Hon. the Leader of the House has also stated that. He has gone a step further and that is the difference. He says that the Government should get through the Second Plan and that, therefore, it is necessary to tax the necessaries also. Dr. Lokanathan does say that. If that is the case, there is also the Third Plan. Again, the second objective of Dr. Lokanathan is this. He says that the levy system should be simple for the administrators and the traders. Certainly, the Government have accepted this view. The Hon. the Leader of the House in his statement has stated that they have considered the representations of the trade in this respect. I should like to point out that even traders and merchants also are consumers. Some of the hon. Members who spoke earlier seemed to be under the impression that traders were not consumers and that they were only traders, not looking to the interests of consumers. We cannot wholly accept that plea. They too, after all, live in the midst of people and consumers. The third objective of Dr. Lokanathan is that it should give relief to the consumers to the extent that revenue consideration will permit. The Hon. the Leader of the House will certainly agree with me if I say that he has not made such a concession in the statement he has made. All that he has stated in the concluding portion of his speech is that the pattern of the Bill is calculated to give relief to the small traders. But this will not convince the traders in general because of the powers taken for plugging evasions and suppressions. Perhaps he had this aspect in his mind; I do not find that in the statement. Perhaps that was one of the considerations or rather even the main consideration of the General Sales Tax Bill.

Sir, I shall give briefly a history of sales tax. If I touch upon important events, the magnitude of the tax would be clear. Sir, it was introduced in 1939 to make up the loss in revenue as a result of Prohibition. At the beginning, it was a multi-point tax at a very low rate of half per cent with provision for a slab rate of

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tax for the benefit of small traders. Since then, it has undergone many modifications and there have been changes in the structure of the tax also. All sales of goods by dealers with turnovers in excess of Rs. 10,000 were made liable to tax. In 1940, the general rate was reduced from half to quarter per cent and the slab rate was only Rs. 4 per month. In 1943, the general rate was again raised to one per cent and the slab rate was increased to Rs. 8 per month for turnovers of Rs. 10,000 to Rs. 15,000, and Rs. 12 for turnovers of Rs. 15,000 to Rs. 20,000. What happened in 1948? Prohibition was extended to the whole State and, therefore, the loss in revenue was greater. So, they had to find some means of getting more revenue by way of taxes. In 1948—with the districts of Andhra, Malabar and South Kanara still with us—the loss was estimated to be Rs. 17 crores. To make up this loss, the rates of sales tax were revised.

(Deputy Chairman in the Chair.)

4-30 p.m. The slab rates were abolished and the general rate was increased to 1-9/16 per cent. First it was half per cent. It was raised to one per cent. Then it was again raised to 1-9/16 per cent. Not satisfied with this, an additional tax of three pies a rupee on some commodities and six pies a rupee on some others at the first stage of sale in the State was levied on certain specified luxury articles. Sir, in 1949 the rate of tax on hotels was increased to $4\frac{1}{2}$ pies per rupee for turnovers in excess of Rs. 25,000. Between 1949 and 1954 there were only certain minor changes. The tax on handloom cloth was first reduced and later it was completely withdrawn. Between 1954 and 1956 additional taxes were levied on super-fine and fine varieties of cloth, sugar and medium cloth also. So, we now find that there has been a rise in the rate of sales tax since 1939. Then, if we go through the figures given by Dr. Lokanathan, we will find that even after the separation of the Andhra districts and the Malabar and South Kanara districts our income has gone on increasing.

I should like to point out the general index of price, taking the index in 1939 as hundred. To-day the general index of price is 440. It is nearly four times the figure in 1939. If we consider the income and the value of a rupee, the value has considerably gone down. Now, Sir, from the figures that Dr. Lokanathan has given in his Report, I find the revenue from sales tax in the case of turnovers over Rs. 50,000 constitutes nearly 85·8 per cent. The revenue in the case of turnover less than Rs. 50,000 constitutes less than 15 per cent. An amendment has been given that there should be the compounded rate for turnovers up to Rs. 50,000. Even if the turnover is over Rs. 50,000, you would not be losers. While the initial impact of the sales tax is on dealers and manufacturers, its ultimate incidence is on consumers within our State and, to some extent, outside the State also.

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I am now coming to commodities on which they levy the sales tax. There is already sales tax on paddy, rice and other commodities. The most essential items of consumption in our State are paddy, rice, milk and cloth. The tax on these things amounts to 40 per cent of the total revenue from sales tax. I am not now pleading that they should completely abolish the tax on these articles. If they abolish it, they lose 40 per cent of the total revenue from this tax. But there is a strong case for reducing the rate to half per cent, as suggested by Dr. Lokanathan. He said that a tax of half per cent might be levied on foodgrains, pulses and milk. But they have included now in this Bill fresh vegetables, fresh fruits, betel, plantain leaves, flowers, eggs, meat, fish, etc., and they propose a levy of one per cent on these articles. Of course, if the turnover exceeds Rs. 30,000 in the case of vegetables, they can think of a levy. But if the turnover is not so much I would request the Government to see whether these can be excluded from the levy of this tax.

THE HON. SRI R. VENKATARAMAN : If we confine it to vegetables, fruits and flowers, there will be no tax up to a turnover of Rs. 30,000.

SRI T. P. SRINIVASAVARADAN : Then, I do not press it. But still I press that the rate should be half per cent and not one per cent. Dr. Lokanathan recommended the extension of single—point tax at the source to as many commodities as possible. I am glad to note that the Government have accepted many of his recommendations. But in respect of certain commodities, they are unable to agree to his recommendations.

* THE HON. SRI R. VENKATARAMAN : On the representation of the trade itself, in the first Bill we included all the items which Dr. Lokanathan recommended for a single-point levy. But in the course of the evidence tendered before the Select Committee, the traders wanted that it should be shifted to the multi-point levy.

SRI T. P. SRINIVASAVARADAN : Did you consider the interests of consumers when you accepted the representations of the traders?

The next point which I should like to place before this House is this. With regard to payment of tax at compounded rates, the rates per annum proposed are as follow :—

In the case of turnovers between Rs. 10.000 and Rs. 15.000, the rate is Rs. 120. In the case of turnovers between Rs. 15,000 and Rs. 20,000, the rate is Rs. 180. In the case of turnovers between Rs. 20,000 and Rs. 25,000, the rate is Rs. 240.

There again, if I remember aright, Dr. Lokanathan recommended levy at Rs. 4, 5, 8 and 12 in such cases. But here the rates are very high.

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The next point is about the burden of proof. It is stated that the burden of proof that any dealer or any of his transactions is not liable to tax shall lie on such dealer. No one will quarrel with this because it is the dealer that has got to prove it. But I shall give one or two instances where an unreasonable attitude has been taken. One is about the Commercial Tax Officer and the other is about the Income-tax Officer. A few years ago, I was asked by the Income-tax Officer to appear before him for assessment of income-tax. I gave particulars of all my income. Then he asked me, 'Have you got tuition?' I said, 'Headmasters are not permitted to have tuition.' But still he put me highly provocative questions. Finally I got angry and said, 'You better assess any tax. If you want to be straight and fair to me, put it in writing. Ask me if I have got any tuition. Then I shall give a reply.' That is one thing. Another instance is this. We are running a co-operative stores in our school. We have, of course, to pay whatever we have to pay. Every month our turnover is just about Rs. 30. One officer got into his head to harass us. He harassed me particularly. We staged a drama on a Prize-Distribution Day. Admission was by tickets, but the tickets were not charged for. Many parents would attend if it was free. So, we issued tickets. This particular gentleman, the Assistant Commercial Tax Officer, wanted three or four tickets. To every boy we gave one ticket so that the mother or the father might attend. But this gentleman wanted three or four tickets. I refused to send them.

DEPUTY CHAIRMAN: How is all this relevant to the Bill under discussion?

SRI T. P. SRINIVASAVARADAN: I am talking about the Assistant Commercial Tax Officer and about harassment. Immediately he said that we had been selling the tickets. Then he asked me to send all the books not once but half a dozen times. I beg to submit to the Deputy Chairman that what I stated was relevant, for this is one of the instances of harassment. If the Assistant Commercial Tax Officers take it into their heads to harass people like me and in the City of Madras, we can imagine what amount of harassment there may be in the mofussil. You yourself, Sir, when you were not occupying the Chair and when you were in your seat said that traders should not be harassed. I say this because I happen to be the President of the Co-operative Stores.

4-40 p.m. Sir, as regards the procedure to be followed by the assessing authority, no one would have any quarrel. But my view is this. Sometimes the authorities look into our accounts and think that we have not divulged everything. They make an assessment. They ask us to prove that the assessment is unfair. It is very difficult to prove this, especially when the assessing officers have already made up their minds. The only thing left to us is to file an appeal. So, I would request the Government to issue instructions to their officers to see that they do not unnecessarily harass the assessees.

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Then, Sir, if my reading of the penalty clause is correct, I think not only they pay the assessment but also pay $1\frac{1}{2}$ times the assessment as penalty. This comes to $2\frac{1}{2}$ times the tax. I should like to know from the Government whether my reading of the penalty clause is correct. I should like to know whether in cases where all the items have not been disclosed, there will be this $2\frac{1}{2}$ times the assessment and also the penalty at $1\frac{1}{2}$ times the assessment.

Then, Sir, I come to the question of harassment. In sub-clause (1) of clause 13 it is said . . . . a dealer may be required to furnish within the prescribed period either an advance estimate of his turnover for the year, or such periodical returns of the actual turnover as may be prescribed '. Here comes the trouble. They may require periodical returns every three months or every month. This should be specifically stated in the rules at least. Now we are submitting the return once in six months. If, for every two months, we are required to furnish returns, it will be very difficult for us.

Sub-clause (3) of clause 14 says—

' Penalty, if any, imposed and collected under sub-section (3) of section 12, shall be refunded to the dealer without interest on cancellation of the order of original assessment.'

Sir, I am really thankful to the Hon. Minister for making this provision. But it takes a very long time to get the refund. I can give you one instance. Four or five years back for staging dramas we were given exemption under the Entertainments Tax Act, if the drama was for a charitable purpose. But we were required to submit accounts. We were asked to make a deposit of Rs. 50. After two years, we got that deposit back. I submitted the accounts within thirty days, but still there was this delay of two years. There should be a provision that penalties, if collected wrongfully, should be returned immediately on the cancellation of the order of assessment. Otherwise, it will lie over for two years or more. (Sri V. V. Ramaswami : Without interest). They would not give any interest.

Then, Sir, I come to clause 17 dealing with the power of Government to notify exemptions and also reductions of tax. This is a welcome provision. A ceiling has been put, and the Government are empowered to reduce the tax. Very well. How the Government are going to reconcile this clause with clause 59, I am not able to understand. While the ceiling has been fixed by the Legislature, the Government are perfectly at liberty to reduce the ceiling or make exemptions also. But in clause 59, the Government have taken powers to amend the Schedules by notification. In clause 59, the Government have the power to raise the rates and also include new items in the Schedules. Now, Sir, in support of this, the Hon. Minister quoted the provisions in the Indian Tariff Act. I should like to point out one precedent does not create any infringement of the Acts of the Legislature. You know the well known

principle 'No taxation without representation'. All taxation proposals must be placed before the Legislature. The Government cannot take this power for granted. (Sri K. Balasubramanya Ayyar : No, no.) The Government can reduce the rates. Even if the law permits, I would still plead with the Government that they should set up healthy conventions that taxation measures should not be taken up without the specific permission or approval of the Legislature. This will be a healthy practice.

Then, I come to registration of dealers. The Government have raised the limit from four thousand to seven thousand five hundred rupees. This is a good thing. But I may tell you that as the cost of living has risen, the cost of articles also has risen. Almost every petty dealer will come within this limit. The Government will find a large number of dealers coming within this limit and registering themselves.

Sir, I have got one more point to make, and that is about the penalty mentioned in the Bill. The penalty seems to be very severe. In the Bill that was recently passed, Open Places (Prevention of Disfigurement) Bill, the penalty provided is one thousand rupees. Of course, the provision is that a fine not exceeding one thousand rupees will be the penalty. I do not understand why the figure should not be put at Rs. 500 or Rs. 250. For subsequent defaults, the Government say that the punishment is imprisonment for six months and so on. There is also the penalty of double the fine. Thousand or two thousand rupees may seem to the Government to be a very small sum. This would not be a very small sum for the dealer whose turnover is anything between ten thousand and twenty thousand rupees. It will be a huge sum.

DEPUTY CHAIRMAN : That is the maximum penalty.

SRI T. P. SRINIVASAVARADAN : Generally the maximum is levied from the point of view of revenue also.

THE HON. SRI R. VENKATARAMAN : This is done by the Court.

SRI T. P. SRINIVASAVARADAN : That is done by the Court, because the Government have given them the power. I ask what harm there is if the figure is put at Rs. 250 or Rs. 500. The hon. Member Sri Seshachariar has made reference to confiscation. I would also like to bring this thing to your notice. The Government confiscate the articles, and the articles are allowed to lie outside. Will the Government put the articles in godowns and preserve them or will they simply leave them where they are? If the articles are likely to be affected by wind or rain, what is the procedure that is going to be adopted to save them from damage? In these cases, I should like to know what the Government propose to do. I do not say that confiscation is bad. But when the Government confiscate goods, they should see that the articles are carefully preserved.

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Otherwise, the Government should be prepared to bear the loss consequent on damage to the articles. Then, Sir, there may be articles which cannot stand for more than twenty days. If the Government keep those articles with them, they will get damaged. I do not find any provision in the Bill in regard to the care of these articles. This question must be looked into carefully.

Sir, on the whole, we do agree that this is a good Bill. I would plead with the Government once again that the tax on foodgrains and other articles like vegetables should not be more than half a per cent.

(Mr. Chairman in the Chair.)

* **Sri A. GAJAPATHY NAYAGAR** : மன்றத் தலைவர் அவர்களே, இந்தச் சட்டத்தை விற்பனை வரிச் சட்டம் என்று சொல்லுகிறார்கள். நமது அமைச்சர் அவர்கள் சொல்லியபடி இதைக் கொண்டுவந்ததன் காரணங்கள், ஒன்று வியாபாரிகளுக்குத் தொல்லை கொடுக்கக் கூடாது, மற்றொன்று வரவேண்டிய வருவாயும் குறையக் கூடாது. அதை நாம் ஒத்துக் கொள்வோம். இந்த விற்பனை வரியின் வரலாறுபற்றி நமது ஆசிரியர் சொன்னார். முதன் முதலாக இந்த விற்பனை வரியைக் கொண்டுவந்த போது, யார் இந்த வரியைச் செலுத்துவதென்றிருந்தது ? விற்பனை செய்கின்றவர்கள் செலுத்த வேண்டும் என்று இருந்தது. நாளடைவிலே பொருள் வாங்குவோர் தலையில்—உண்பவர்கள் தலைமேல் (ஸ்ரீ வி. வி. ராமசுவாமி : தின்பவன் தலைமேல் என்று சொல்லுங்கள்)—தின்பவர்கள் தலைமேல் வைத்துவிட்டார்கள். அப்படி இருக்கும்போது "ஆடு இளைக்கிறதே என்று ஓநாய் அழுததாம்" என்று சொல்வது போல்—வியாபாரியை ஓநாய் என்று சொல்லவில்லை, ஒருவன் ஒரு நாளைக்கு ரூ. 1–8–0 சம்பாதிப்பான், அதிலே 1 ரூபாய்க்கு அரிசி வாங்குவான், பாக்கிப் பணத்திற்குப் புளி, மிளகாய் எல்லாம் வாங்குவான் . . .

Sri V. V. RAMASWAMI : ஒன்று சொல்ல விரும்புகிறேன். வியாபாரிகள் எந்தக் காலத்திலும் தின்பவன் தலைமேல் வைப்பதில்லை.

* **Sri A. GAJAPATHY NAYAGAR** : இந்த வரியை யார் கொடுக்கப்போகிறார்கள் ? பொருள்களின் விலையின் பேரில் அதிகப்படியாக இந்த விற்பனை வரியை விதித்து, வியாபாரிகள் அவற்றை வாங்குகிறவர்களிடமிருந்து தண்டல் செய்கிறார்கள். வியாபாரிகள் தங்களுடைய வியாபாரத்தைப் பெருக்குவதன் மூலம் அதை வாங்குகிறவர்களிடமிருந்து வசூலிக்கிறார்கள். நமது அரசியலார் சட்டம் விதித்து அந்த வரியை வசூல் செய்கிறார்கள். அப்படி வசூலிக்கும்போது அந்த வேலையை வியாபாரிகளின் தலையில் வைக்கிறார்கள். அதற்காகத் தனித் துறை அமைத்து, பல அதிகாரிகளை நியமித்து வியாபாரிகளிடமிருந்து வசூல் செய்கிறார்கள். இந்தத் தண்டல் முறையை அரசியலாரே மேற்கொள்ளாமல் வியாபாரிகள் தலையில் வைத்துவிடுகிறார்கள். அதற்கு வியாபாரிகளை "ஏஜெண்ட்" என்ற முறையில் பாவிக்கிறார்கள். அரசியலார் வியாபாரப் பொருள்களின் பேரில் விலை நிர்ணயிக்கும்போது, அத்துடன்கூட ஒரு பெர்செண்ட் அல்லது இரண்டு பெர்செண்ட் விலையை அதிகமாக வைத்து, அதைத் தனியாக அரசியலாருக்குக் கொடுத்துவிடுகிறார்கள். இப்படி வரி வசூலிக்கும் ஒரு பொறுப்பை வியாபாரிகள் தலையில் வைத்துவிட்டார்கள். 4-50 p.m.

இன்னும் இரண்டு சங்கடங்கள் இருக்கின்றன. சில வியாபாரிகள் கணக்கு வைத்துக்கொள்ளமாட்டார்கள் என்று சொல்லப்படுகிறது. ஒருவன் பொருளை விற்று அதன் மேல் வரியை வசூலிக்கக் கணக்கு வைத்துக்கொள்ள வேண்டும் என்று சொல்வதாகச் சொல்லுகிறார்கள்.

சில வியாபாரிகளுக்குக் கணக்கு வைத்துக்கொள்ளவே தெரியாது. கணக்கு வைத்துக்கொண்டால்தான் விதிக்க வேண்டிய வரியைக் கண்டு பிடிக்க சௌகரியமாக இருக்கும் என்றும் சொல்லுகிறார்கள். ஆனால் கணக்கு வைத்துக்கொள்ளாமல் யாரும் இருக்கமாட்டான். நூறு ரூபாய்க்கு விற்றாலும் அவனிடம் கணக்கு இருக்கத்தான் செய்யும். ஐம்பது ரூபாய்க்கு அரிசி வாங்குகிறவர்களும் கணக்கு வைத்துக்கொண்டிருக்கிறார்கள். கணக்கு எழுதாதவன் யாரும் இல்லை. அதனால் கணக்கு வைத்துக் கொள்ள வேண்டும் என்று வற்புறுத்துவது நியாயமில்லை என்று சொல் வது சரியல்ல. ஆனால் அரசியலார் கேட்பதெல்லாம் என்ன ? சரியான கணக்குக் கொடுக்க வேண்டும் என்றுதான் சொல்லுகிறார்கள். இதில் என்ன தப்பு இருக்கிறது ?

Sri K. BALASUBRAMANYA AYYAR: நீங்கள் விற்பனை வரி ஜட்ஜாக இருக்க வேண்டும்.

* **Sri A. GAJAPATHY NAYAGAR**: வரி கொடுப்பது நாம். அதை வாங்கிக்கொள்வது அரசியலார். அதை வசூலித்து வாங்கிக்கொள்ளுகிறார் கள். இதில் எது சரியென்று ஜட்ஜுதான் தீர்மானிக்க வேண்டும். வேறு யார் இருக்கிறார்கள் ? ஜட்ஜு இல்லாவிட்டால் ஒருக்காலும் பிழைக்க முடியாது, நன்றாக இருக்க முடியாது. "Individual liberty" இருக்க முடியாது என்று சொல்லுகிறேன். நான் சொல்வது என்ன வென்றால், நாம் சாதாரணமாகக் கடையில் ஐம்பது ரூபாய்க்குத் துணி வாங்குகிறோம் என்றால், அதைக் குறைந்த விலைக்குக் கேட்கிறோம். வியாபாரி சம்மதித்தால் கொடுக்கிறான், இல்லாவிட்டால் நாம் வேறு கடைக்குச் சென்றுவிடுகிறோம். அந்த வியாபாரி தனக்கு வியாபாரம் போய்விடுமோ என்று குறைத்துக் கொடுக்கப் பார்க்கிறான். விற்பனை வரி சுமார் மூன்று ரூபாயாக இருந்தால் அதைக் குறைத்துக் கொடுக்க முயலு கிறான். நாம் என்ன சொல்லுகிறோம் ? "குறைத்துக் கொடுத்தாலும் கொடு, விற்பனை வரி போடாதே, எனக்கு ரஸீது வேண்டாம்" என்று தான் நாம் சொல்லுகிறோம். அப்படித்தான் ஒவ்வொருவரும் ரசீது வேண்டாம் என்று சொல்லி குறைத்துக் கொடுக்கச் சொல்லுகிறார்கள். அதனால் ஒவ்வொரு வியாபாரியும் தனக்கு லாபம் கிடைத்தால் போதும் என்ற முறையிலும், தனக்கு வியாபாரம் நடக்க வேண்டுமென்ற முறை யிலும், தன்னுடைய கிராக்கி போய்விடக் கூடாது என்ற முறையிலும் ரசீது போடாமல் வியாபாரம் செய்கிறான். இப்படி வரி கொடுக்கக் கூடாது என்று சிலர் இருக்கிறார்கள். தனக்கு வியாபாரம் நடக்க வேண்டும் என்பதற்காகவும், வாடிக்கைக்காரர் வேறு கடைக்குப் போகக்கூடாது என் பதற்காகவும் விற்பனை வரிப் பணத்தை விட்டுக் கொடுத்து ரசீது போடாமல் கூட வியாபாரம் செய்கிறார்கள். (குறுக்கீடு) நான் அப்படிச் சொல்வது கிடையாது. நான் ஒரு எம்.எல்.சி. என்ற முறையில் விற்பனை வரி போட்டுத்தான் வாங்குவேன். அப்படி விற்பனை வரி கொடுக்காமல் வாங்கினால், அதனால் யாருக்கு நஷ்டம் ? அதனால் அரசியலாருக்குத்தான் நஷ்டம் ஏற்படுகிறது. (குறுக்கீடு). இப்படி நஷ்டம் வந்தால், உங்க ளுக்கு எல்லாம் எப்படிச் செலவு செய்வது ? இந்த வரியை நாம் எப்படிக் கொண்டுவந்தோம் ? கள் குடி இருக்கக் கூடாது என்று நமது அரசியலார் சொல்லி அதனால் ஏற்பட்ட வருவாய் நஷ்டத்தைச் சரிக்கட்ட இந்தச் சட்டத்தைக் கொண்டுவந்தார்கள். அதனால் எவ்வளவோ கோடி ரூபாய் நஷ்டமடைந்து இதைக் கொண்டு வந்திருக்கிறார்கள். ஒரு ரூபாய்க்கு நாலணா என்று கள்ளுக்கு வரி போட்டு சம்பாதித்து வந்த பணத்தை இழந்து மற்ற சாமான்கள் வாங்கக்கூடிய எல்லோருக்கும் கொஞ்சம் வரி போட்டு வாங்கி வந்தார்கள். இப்படி எல்லாச்சாமான்களின் மீதும் வரி போட்டு வசூலித்துக்கொண்டு வந்தார்கள். அரிசி, பருப்பு, மிளகாய், உப்பு முதலியவைகள் நமக்கு முக்கியமான பண்டங்கள். அவை களின் மீது வரி போட்டு வசூலித்து வந்தார்கள். நான் சொல்வது என்னவென்றால் இப்படிப்பட்ட முக்கியமான பண்டங்களின்மீது வரி போடுவது நல்லது அல்ல.

18th February 1959]

Sri MOHAMED RAZA KHAN : தேங்காய் ?

*** Sri A. GAJAPATHY NAYAGAR :** தேங்காய் உங்களுக்கு வேண்டிய தாக இருக்கும். குருமாவுக்கு வேண்டியதாக இருக்கும், எங்களுக்கு வேண்டாம். (ஸ்ரீ வி. வி. ராமசாமி ; சட்டினி இருக்கிறதே.) சட்டினி எங்க ளுக்கு அவ்வளவு அவசியம் இல்லே. சட்டினிக்கு எட்டணு அல்லது பத்தணு ஜாஸ்தி செலவாகிறது. அதனுல் அது அவசியம் இல்லே. அவர்களுக்குத் தான் குருமா அவசியம். ஆகையினுல், ஒரு ரூபாய்க்கு அரிசியோ அல்லது வேறு பண்டமோ எது வாங்கினுலும், விற்பனே வரி கொடுக்கவேண்டிய தாக இருக்கிறது. இன்றைக்குப் பார்த்தால் ஒரு நாளேக்கு எட்டு மணி அல்லது பத்து மணி நேரம் வேலே பார்த்துவிட்டு ஒன்றரை ரூபாய் சம்பாதித்து வருகிற பெண்மணிகள் வீட்டுக்கு வந்து சமையல் செய்ய வேண்டியதாக இருக்கிறது. அவர்களுக்கு வரி போடுவதென்றுல் நல்ல தாக இல்லே. ஆகவே, இப்படிப்பட்ட பண்டங்களுக்கெல்லாம் இவ்வளவு வரி போட வேண்டியதில்லே. இப்பொழுது இருக்கிறது போல் ஒரு பெர் செண்ட் இல்லாவிட்டாலும், அரை பெர்செண்டாவது போடலாம். வேண் டாம் என்று நான் சொல்லவில்லே.

இந்தச் சட்டத்திலுள்ள 17, 59 ஆவது பிரிவுகளேப்பற்றிக் கொஞ்சம் சொல்ல வேண்டியதாக இருக்கிறது. 17-வது பிரிவில் என்ன சொல்லி யிருக்கிறது என்றுல்—

"(1) The Government may, by notification, make an exemption, or reduction in rate, in respect of any tax payable under this Act—

(i) on the sale or purchase of any specified goods or class of goods, at all points or at a specified point or points in the series of sales by successive dealers; or"

இது அதிகப்படியான அதிகாரத்தை வைத்துக்கொள்வதாக இருக்கிறது. குறைத்தாலும் குறைக்கலாம், அதிகரித்துக்கொண்டாலும் கொள்ளலாம் என்ற அடிப்படையில் இருக்கிறது. அடுத்தபடியாக, 59-வது பிரிவு வேறு இருக்கிறது. அதைப்பற்றிச் சொல்லும்போது **"No man can be taxed except by authority of law"**. அதன்படி சட்டம் செய்வதாக இருந்தால் அது சட்டசபைக்கு வந்து தீர்மானித்து அதன் மேல்தான் சட்டம் செய்ய வேண்டும். அப்படித் தீர்மானம் செய்த பிறகுதான் வரி வசூலிக்க வேண்டும். முதலிலேயே ஜாஸ்தியாகவோ அல்லது குறை வாகவோ செய்து விட்டு அதன் பிறகு சபைக்கு வந்து அனுமதி கேட்கிறுர் கள். அது சரியல்ல. இது எப்படி இருக்கிறது என்றுல் **"putting the cart before the horse"** என்று சொல்லுவது போல் இருக்கிறது.

59-வது பிரிவைப்பற்றிச் சொல்லும்போது ஸ்ரீ பாலசுப்ரமணிய அய்யர் சொல்லுகிறுர், "டாரிப் ஆக்டில் அப்படிப்பட்ட வாக்கியம் இருக்கிறது, அது அப்படியே இங்கு போடப்பட்டிருககிறது" என்று. இது ஒரு உதாரண மாகாது. இதன் மூலமாகவும் அதிகப்படியான அதிகாரத்தை அரசிய லார் வாங்கிக்கொள்ளுகிறுர்கள். இவ்வளவு கூடாது. விற்பனே வரி சம்பந்தமாக ஒரு ஸ்டாண்டிங் கமிட்டியைப் போட்டு, அசெம்பிளி, கவுன் சில் இந்த சபை அங்கத்தினர்களில் சிலர் கொண்ட ஒரு கமிட்டியை அமை த்து, அதிலும் நிபுணர்களேப் போட்டு முன்னுடியே அவைகளேப்பற்றி ஆலோசனே செய்து அதன் மேல்தான் இந்த 59-வது பிரிவை அமுலுக்குக் கொண்டுவரவேண்டும். அதன் பிறகு சட்ட சபையில் அதைப்பற்றிய சாங்ஷன் வாங்கிக்கொள்ளலாம். நேரடியாக ஒரு செக்ரடரிக்கு அதிகாரத்தைக் கொடுத்து அந்த அதிகாரத்தின்படி இரண்டை ஒன்றுக ஆக்குவதோ அல்லது ஒன்றை இரண்டாக ஆக்குவதோ கூடாது. சட்ட சபையைக் கேட்காமல் செய்கிறுர்கள் என்ற குறை வரக்கூடாது. அப்படி வரக்கூடிய

குறையை நீக்குவதற்கு அசெம்பிளி, கவுன்சில் மெம்பர்களைக் கொண்ட ஒரு கமிட்டியை அமைத்து இதைப்பற்றிப் பரிசீலனை செய்து ஒரு முடிவுக்கு வந்து அதன் பிறகு சபை முன் வைத்து அமுலுக்குக் கொண்டு வரவேண்டும். இப்படிப்பட்ட ஒரு கமிட்டி ஏற்கனவே இருக்கிறது. அதை வைத்துக்கொண்டே பரிசீலனை செய்யலாம். அப்படிக் கொண்டுவந்தால் தான் நன்ருக இருக்கும் என்பதை அரசியலாருக்குச் சொல்லிக்கொள்ள விரும்புகிறேன்.

மற்றும் சொல்வதற்கு ஒன்றுதான் இருக்கிறது. அதாவது பிரிவு 27–ஐப்பற்றி. அதற்கு ஒரு திருத்தத்தையும் நான் கொடுத்திருக்கிறேன். 27–வது பிரிவில்

"Provided that the recovery from the transfer of the arrears of taxes due for the period prior to the date of the transfer shall be limited to the value of the assets he obtained by transfer"

என்பதற்கு நான் ஒரு திருத்தம் கொடுத்திருக்கிறேன். அதாவது

"In the proviso to clause 27, after the words "transfer" and before the words "of the arrears of taxes", insert the word "*inter vivos* or by operation of law."

"ட்ரான்ஸ்பர்" என்பதற்கு ஒரு விளக்கம் வேண்டும் என்பதற்காகத்தான் நான் இந்தத் திருத்தத்தைக் கொடுத்திருக்கிறேன். ட்ரான்ஸ்பர் கொடுத்தவன் இறந்து விட்டால், யாரைப் பொறுக்கும் என்பதற்கு நான் திருத்தம் கொடுத்திருக்கிறேன். யார் கையில் சொத்து வந்திருக்கிறது என்பதைப் பார்க்கவேண்டும். அதனுல் இதற்கு விளக்கம் செய்தால், நன்ருக இருக்கும் என்பதற்காகத்தான் நான் திருத்தம் கொடுத்திருக்கிறேன். "*inter vivos* or by operation of law" என்று சேர்த்துவிட்டால் விளக்கமாகி விடும். ஆகையால் விளக்கம் கூறும்படியாகக் கேட்டுக்கொள்ளுகிறேன்.

5 p.m. கடைசியாக ஒன்று சொல்வேன். சட்டத்தில் என்ன குறை இருந்தாலும், ஒருமுனை வரி, இரண்டுமுனை வரி என்று எவ்வளவுதான் பேசினுலும், அனுபவத்தில் தான் எது நன்மை, எது தீமை என்பது தெரியவரும். இப்பொழுது ஒருமுனை வரி போட்டிருப்பது அனுபவத்திற்குப் பிறகு தவறு என்று தெரிந்தாலும், மக்களுக்குக் கஷ்டம் தரக்கூடியது என்று கருதினுலும், அரசியலார் வரியைக் குறைத்து விடுவர் என்று கருதுகிறேன். என்னதான் செய்தாலும் இந்தச் சட்டத்தை அனுபவத்தில் கொண்டுவந்து செயலாற்றும்போது அதிகாரிகள் மக்களோடு மக்களாகப் பழகி, மக்களும் வாழ வேண்டும், வியாபாரிகளும் வாழ வேண்டும், அதிகாரிகளும் தங்கள் கடமைகளைச் சரிவரச் செய்ய வேண்டும் என்பதை மனதில் இறுத்தி, தாங்களும் நல்ல பெயர் எடுத்துக் கொண்டு, அரசாங்கத்திற்கும் நல்ல பெயர் ஏற்படும்படியான நிலையில் பணியாற்றவேண்டுமென்று கேட்டுக்கொள்ளுகிறேன். சிலர் தெரிந்தோ தெரியாமலோ இந்தச் சட்டத்திற்கு உட்பட்ட குற்றங்களை இழைத்து விட்டால், முதலில் அவர்களுக்கு மன்னிப்புக் கொடுக்க அரசாங்கம் முன்வர வேண்டும். இதை அலுவலர்கள் செய்வார்கள் என்று நினைக்கிறேன். அமைச்சர் அவர்களும் நன்ருகக் கவனம் செலுத்திக் கொண்டு வருவார்கள் என்ற நம்பிக்கையோடு என் பேச்சை முடித்துக்கொள்ளுகிறேன்.

* **THE HON. SRI R. VENKATARAMAN** : Mr. Chairman, let me, at the outset, thank the hon. Members for the compliments that they have been pleased to shower on me in respect of the conduct of the

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meetings of the Select Committee as well as the presentation of the Bill under discussion. I do not know, however, whether I deserve any of them. But, I take it as an indication of the extraordinary friendliness that this House has always shown to me all along. Sir, this Bill has long been overdue. Ever since the original Sales Tax Act was passed in 1939, numerous amendments were carried to the Act, with the result that one was in utter confusion as to the various sections of the Act and also with regard to the assessment of the various items mentioned therein and every time one had to look to the judicial decisions for the purpose of ascertaining what the rate of tax on any particular commodity was. So, the mercantile community represented firstly that this Act should be made simple and intelligible to them. Even if the Act does not have any other virtue, the mere fact that the Act has been consolidated and made simple and intelligible to the mercantile community is itself a welcome reformation. The second point represented by the mercantile community was that in the administration of the Act, there were several difficulties, particularly to smaller dealers and that relief should be given to the smaller dealers from the necessity of having to keep meticulous accounts in respect of their transactions. The third representation which the mercantile community made was that from a multi-point levy, sales tax should be made as far as practicable a single-point levy on items which were capable of being taxed at source and, to that extent, the mercantile community would be saved from the difficulty of having to pay at various stages taxes on the same commodity. Naturally, Sir, the Government appreciated the points of view of the mercantile community and found that there was considerable validity in the points made by them. So far as relief from taxation is concerned, it is not so much the concern of the mercantile community as that of the consumers, and I shall, therefore, deal with that subject later. I may be permitted to make a modest claim that whether I have succeeded in satisfying the consumer or not, I think I have endeavoured my utmost to satisfy the mercantile community in this matter.

In the first place, I have not enhanced the tax. I want to make it clear, because certain statements were made in the course of the debate leading to an impression that the Government had enhanced the tax. The Government have not enhanced the tax on any item from the rates prevailing on the 1st April 1957. Even when they have shifted the commodities from the multi-point levy to single-point levy, there is not very great or appreciable change, but there is a small reduction in the rate of levy at a single point. The only list of commodities in respect of which there is increase is that relating to luxury articles. At a recent Conference of Ministers in charge of Commercial Taxes held at Delhi, it was agreed to levy a uniform tax on luxury articles throughout India for the purpose of preventing flight of trade from State to State as a result of disparity in rates of tax. Therefore, I venture to submit that the charge that the Government have enhanced the rate is not borne out by facts.

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Then, as regards the difficulty of maintaining accounts, we still suffer from the experience of the past. In the past the Commercial Tax Officer had to assess meticulously every account for the purpose of ensuring that the full tax was realised by the Government. For instance, it was a matter of very great importance both to the Government and to the Commercial Tax Officer to determine whether the turnover of a dealer was Rs. 10,322 or Rs. 10,323 or Rs. 10,324. Because, if the turnover was one rupee more, the Government would get 2 naye paise and if the turnover was more by another Rs. 2, the Government would get another 4 naye paise on that. It was, therefore, necessary in those circumstances to assess meticulously the exact amount of turnover of each trader or dealer. Now, under the compounding system, all that the Commercial Tax Officer has to see is whether a person falls between the slabs of Rs. 10,000 to Rs. 15,000 or Rs. 15,000 to Rs. 20,000. It is no concern of his whether a person has had a transaction or turnover of Rs. 10,322 or Rs. 10,323. All that the assessing officers will now have to do is to see whether the person falls in one of these slabs according to the rate of assessment. Therefore, his task is rendered easy and the task of keeping accounts meticulously is also rendered easier and the meticulous examination of accounts which necessitates a great deal of thorough examination and consequent harassment is removed up to transactions involving Rs. 25,000. I do not deny that there will be border-line cases in respect of which it would be necessary for the dealers to keep accounts. But, in these cases also, it would be necesssary to produce such vouchers or evidence as the Government may propose for the purpose of assessment. We have taken powers under this Act to determine what sort of account that person should keep. It is the intention of the Government that persons having transaction up to Rs. 25,000 need produce only purchase bills and need not keep meticulous accounts in respect of sales. Therefore, I submit that, to a large extent, the difficulties of the samll trader have been removed.

5-12 p.m. Then the question is asked : 'Why should not the exemption limit be raised from Rs. 10,000 to Rs. 25,000? ''. There is a danger in raising the limit. If the exemption limit is raised to say, Rs. 50,000 or even Rs. 30,000, it would be easy for a trader to split his trade in the name of two or three people and completely evade payment of the tax. It is to prevent such a split in the trade that we have to keep the exemption limit at a very reasonably low level. I need not labour this point very much because it is obvious, and nobody would even accuse any trader who takes advantage of a law which permits him to do such a thing. It is not, therefore, possible to raise the exemption limit. Even Dr. Lokanathan recommended that the question of compounding of the tax might, after consideration of the results of the working of the Act for a year or two, be examined with a view to raising the limit to Rs. 50,000. The Government are fully alive to the recommendation and certainly the Government will give very serious consideration to the question of increasing the compounding limit to Rs. 50,000 after watching the results of the working of the Act for a year or two. If the

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results are that on account of the facility of composition provided in the Act, there has not been any serious evasion of the tax and consequently the work of the Sales Tax Department has been reduced to a large extent, as we hope it would be reduced, the Government would be encouraged to raise the compounding limit to Rs. 50,000.

Another very important question which has been debated in this House is the rate of levy. Dr. Lokanathan recommended that the general multi-point levy should be one per cent and that the tax on food articles like milk, etc., should be half per cent. I submit these are the only two recommendations which the Government have not accepted. Government have accepted every other recommendation of Dr. Lokanathan. The reasons for the Government not accepting the recommendations, I shall detail now before you.

In the first place, as it has already been stated by me both in the Select Committee and in the course of my speech introducing the Bill, the financial commitments of this Government in respect of the Second Five-Year Plan are such that we cannot afford to lose any revenue during the course of the Plan. If we lose any revenues during the course of implementation of the Plan, to that extent, we will not be able to open more primary health centres, more Community Development Blocks and more small-scale industrial units. We will not be able to carry out the developmental works which we have undertaken. It is for the House to weigh the relative advantages and disadvantages of having all the developmental works or of having a lower rate of levy in respect of sales tax. It is a well-known principle of a socialistic pattern of society, where the differences between the rich and the poor are not very great, that the cost or the burden of the administrative and developmental work should be borne by almost everybody. The old theory of tax based on 'Adam Smith' has long been given up. To-day, the modern concept of taxation is that if you accept a socialistic pattern of society, it is necessary that everyone in the community should bear the burden in respect of developmental expenditure so necessary for the community itself. On that basis, tax is levied on various commodities notwithstanding the fact that they are necessaries of life. If you look at it from that point of view, the only objection that could be raised to the levy of tax is not that the tax itself is wrong or theoretically unsound but that it is too heavy a burden for the people to bear. Most certainly no person can be taxed beyond his capacity to bear it merely because we have to carry out a number of developmental programmes. Now, I ask the House to consider whether a levy of one per cent on foodgrains is such a serious burden that the community cannot bear. In the first place, nearly 80 per cent of paddy and rice and other foodgrains are consumed in the places of production by the small cultivators either for their own subsistence or by way of payment of wages in kind to the labourers or as resources for cultivation purposes. Hardly ten to fifteen per cent of the total production of foodgrains goes into the market and bears sales tax. In fact, if all the food that is produced were to

go into the market and were to bear sales tax, it would be possible for us to reduce the tax even to ¼ per cent. Therefore, the vast majority of the people do not bear the burden of sales tax on foodgrains. To say that as a result of levy of one per cent sales tax on foodgrains, the cost of living has gone up or that the bulk of the people in the State are affected is not a valid argument. It is true that a section of the people—largely urban or semi-urban population—bears this tax. But the theory that the bulk of the people of this State bear the tax is not well-founded. Then, the amount of the tax itself is not very high. Nor does it make a very serious difference in prices. Let me give an illustration. Taking the price of paddy as Rs. 20 a bag, you will find that on five bags of paddy, you will have to pay three rupees as tax on the assumption that there are three transactions whereas on foodgrains, it is generally accepted, there are only two transactions. Assuming that there are three transactions on five bags of paddy, the amount of tax payable would be 3 per cent and the price will go up from Rs. 100 to Rs. 103. Five bags of paddy reduced to Madras measures will be 250 Madras measures and three rupees means 300 naye paise. So, one naya paisa is the net increase in the price per Madras measure on account of the tax. I do not think it is such a heavy burden as to create such a serious opposition to the levy.

5-20 p.m. SRI T. P. SRINIVASAVARADAN: What about the sales tax on other articles which are very necessary such as oils, pulses and other things? The Hon. Minister has not taken them into account. He has taken only paddy into consideration. If you were to take into consideration the tax paid on all these things, I would like to know whether that would not be a serious thing.

* THE HON. SRI R. VENKATARAMAN: I have said in the order of society that we envisage, we have to pay, and everybody has to bear a share of the cost of developmental works, Sir, serious objection was taken to the tax on foodgrains and, therefore, I am trying to meet that point.

Then, if the sales tax were really to make such a serious difference in the price of food in the State, how much was the price of foodgrains reduced when we reduced the tax from two to one per cent? On the contrary, I would ask, 'Have the prices of foodgrains shown a tendency to go down?' As I explained in the course of my reply to the debate on the Governor's Address, the level of prices in the country depends on the tempo of investment and not on the levy of a particular tax unless it is so heavy and so serious as to make an impact on it. If the argument that the levy of one per cent sales tax will certainly increase the price of foodstuffs to such an extent as to cause a serious burden, then the reduction of tax from two to one per cent should have made a very serious difference in the prices. But, unfortunately, it has not been the case. Therefore, I am illustrating it to show that the sales tax does not in any way control or determine the prices of foodgrains but that other factors are doing it.

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There is one other reason why Madras cannot afford to give up sales tax on foodgrains. Kerala is a deficit State and Mysore is a deficit State in the matter of production of foodgrains. So far as Madras State is concerned, we are said to be fairly self-sufficient, and Andhra is a surplus State. Now people near Andhra border would prefer to get rice from Andhra because the transport charges are less than they would be if they were to get them from Tanjore which is far away. What happens is, people in Madras get rice from Andhra while a large part of the produce in Tanjore district and Tiruchirappalli district is now going to Kerala as a result of purchases there. If hon. Members look at it from the point of view of sales tax, we pay three per cent to Andhra Government when we buy foodgrains, particularly paddy and rice, from Andhra and if we remove that one per cent which we levy. Kerala will be buying from us without even paying the small sales tax to this Government. Actually we would not be helping our own people but we would be helping the purchasers from the neighbouring State to get the benefit which will not go very much to our own people. We pay three per cent and buy rice from Andhra and we allow Madras rice to be sold to other people, particularly to Kerala which is buying from our State without even a levy of one per cent and odd. Therefore it is I submit that after a great deal of consideration—though I was personally at one stage inclined to show some deference in respect of this matter—Government came to the conclusion that as in the first place, it was not worthwhile and in the second place as it would not really benefit our own people but only purchasers from outside, the tax should be there. Therefore, Mr. Chairman, I beg to submit that this levy of one per cent on foodgrains is not such a wrong thing for the Government to do. I am quite sure, if we look at it dispassionately, the House will agree with me that it is not such a serious matter as to cause a great disturbance in the cost of living of the people in this State.

Now, there are a number of items in respect of which hon. Members have made several points. I shall deal with them one by one. In the first place, a suggestion was made by the hon. Member Sri V. V. Ramaswami, on the basis of a very valuable suggestion made by Sri K. Santhanam in the course of his Presidential address at a conference of merchants and traders in the Madras City, that the assessment should be made once in three years. At the first look it appears attractive. But I am afraid that it is unscientific. Suppose a trader has had transactions to the extent of Rs. 50,000 in one year and in the next he has no transactions at all. Should the Government compel the trader to pay at the rate at which he paid in the previous year? To do so is neither equitable nor just. Equally to say that a person who has had transactions only for Rs. 50,000 in the past year should be allowed to pay the tax at the same rate even though his transactions had doubled and gone up to a hundred thousand rupees in the next year and keep the difference which he had not earned but which he had collected as sales tax, is neither just nor equitable. In fact, a trader will not know whether his

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transaction at the end of the year would be to the tune of Rs. 50,000 or Rs. 1,00,000. He will collect sales tax on every one of his transactions. When he goes on collecting sales tax on every one of the transactions, he will find at the end of the year that he had transactions up to Rs. 1,00,000 and he has to pay tax only on Rs. 50,000 on the basis of the three-year assessment. This is really allowing the trader to make a profit on the basis of tax which he is not entitled to collect. The tax is levied by the Government for the purpose of serving the people. If the Government collect the tax, it is spent back on the people. If the trader collects it and retains the difference of the amount, it is fair neither to the Government nor to the people. Therefore, I venture to submit that the suggestion of a three-year assessment is not scientific and that no Government would be able to accept things which are based purely on rough and ready method.

Then, Sir, the next question relates to punishment and harassment. I make this emphatically clear, Mr. Chairman, that the Government will not tolerate any harassment by any official provided we are satisfied that there has been harassment and it is proved. It is the duty of the Government to see that no person who is innocent is made to suffer because a group of people come and make representations against him. At the same time, Government are not interested in collecting money merely by harassing the people and levying harsh assessment not justified by facts. But whether there is harassment or not is a question of fact and no law, however perfectly enacted, would be able to provide against the possible harassment by officers. I have a feeling that after compounding is allowed up to Rs. 25,000, the complaint of harassment will go down very much and that the department will concentrate more attention on the 13,000 and odd persons who are having a turnover of over Rs. 50,000 than on the 30,000 people who are having a turnover up to Rs. 25,000. Even from the point of view of securing proper revenues to the State, it is the duty of the officers to concentrate more on people who have larger transactions than on small dealers
5-30 p.m. with transactions up to Rs. 10,000 or Rs. 15,000. Since up to now they had to assess the turnover correctly for the purpose of collecting the tax, they might have to some extent been very meticulous in calling for accounts. As I already said, after this is changed, the complaint of harassment will go down very much.

Then, it was complained that the punishment provided for in clause 45 (2) was very heavy. Sir, the complaint is not justified. If we look at clause 45, we will find that in respect of persons who fail to submit return, etc., there is only a fine but in respect of even persons who wilfully submit an untrue return or fraudulently evade the payment of tax or dishonestly object to a notice issued to them, that is, persons who are guilty of '*mensrea*', the first offence is punishable with fine and the second and subsequent offence alone is punishable with imprisonment. Some hon. Member has asked whether a similar provision exists in other State enactments on this matter. I desire to draw the attention of the House to the relevant

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provision in the Andhra Sales Tax Act. Section 30, clause (2) (*b*), of that Act, which is almost in identical terms with the one which we have framed, says—

'(*b*) fraudulently evades the payment of any tax, fee or other amount due from him under this Act; shall, on conviction, be liable to be punished, if it is a first offence with fine which may extend to two thousand rupees.'

(Whereas, it is only Rs. 1,000 in our case.)

'and if it is a second or subsequent offence with simple imprisonment which may extend to six months or with fine which may extend to two thousand rupees, or with both.'

A similar provision exists in the Mysore Sales Tax Act also. Section 29 (2) (*d*) of that Act says—

'shall on conviction, in addition to the recovery of any tax or other amount that may be due from him, be punishable with simple imprisonment which may extend to six months or with fine not exceeding two thousand rupees or with both.'

Therefore, I beg to submit that the impression created is not borne out by the facts of the case.

SRI V. V. RAMASWAMI : These two Governments have given us a lead in this matter.

* THE HON. SRI R. VENKATARAMAN : I do not think so.

SRI A. M. ALLAPICHAI : Has the Court any discretion in the matter?

* THE HON. SRI R. VENKATARAMAN : In the case of the second and subsequent offence, the Court is obliged to give a heavier penalty so that subsequent offences may not be committed.

Then, Mr. Chairman, I shall deal with the question raised by the hon. Member Sri Balasubramanya Ayyar with regard to the power to alter or add to the Schedule. I do not plead that the Sales Tax Act is on all fours or identical in its import with the Indian Tariff Act. In the Indian Tariff Act, the trade of India *vis-a-vis* its trade relations with other countries has got to be protected. Besides, protection has got to be given in respect of certain commodities and articles produced in our country and therefore it is that the Tariff Act has given certain powers. If I refer to the Indian Tariff Act at all, it is only to show that it is not illegal or unconstitutional. So far as the Constitution is concerned, the amendment (similar to this one) which has been made by Parliament has not been challenged in regard to its constitutional validity. As I said, it is constitutional. When I come to the question of the need for a provision like this in the Sales Tax Act, I justify it on facts and I want to repeat one or two things again.

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In the old Sales Tax law, the question of certain commodities being brought under the additional excise by the Central Government did not arise. But after experience with various sales tax administrations, the Government of India are now thinking of levying an additional excise duty in respect of certain commodities and dividing the income therefrom among the States. The three commodities, sugar, textile and tobacco, in respect of which the Government of India have assumed power to levy additional excise duty in lieu of sales tax, are before us. A number of representations are now being made by the trade interests themselves that in respect of commodities which have an all-India market and even an export market, it will be better to include them in the list of commodities in respect of which the additional excise duty may be levied and may be exempted from the levy of sales tax. One such item is, as I mentioned, coffee. There are a number of other items, in respect of which similar suggestions are being made from time to time. Now, Sir, if the Government should agree to any one of these things and then direct that a certain commodity should be removed from the levy of any tax for the purpose of inclusion in the Third Schedule, then the power has to be taken for the purpose of altering it.

Similarly I will take another case. We are levying under the single-point tax a certain rate of sales tax on machinery and so on. It may be that the trade of Madras is affected and, as has been mentioned in the Select Committee during the discussion on the Bill, certain items have to be removed from Schedule I and instead of a single-point levy, a multi-point levy has to be adopted. If we have not got the power to notify these things, we will have first to bring in a Bill and then proceed with it. Between the date on which the intention gets known and the date on which it is passed, it is possible for the people to corner the goods and then take advantage of any difference in the levy of sales tax under the new system. So also it may be necessary to remove certain items from the multi-point levy and then bring them under the single-point levy for the purpose of protecting the trade interests in this State. When we do that, and when the people get to know of it, they will not only corner the goods but also make book adjustments as if they had bought them by paying a multi-point tax and then say that they are, therefore, not liable to the levy of a single-point tax. This question has also arisen in the very Bill itself. We have provided in clause 60 that notwithstanding the fact that certain commodities have suffered a multi-point levy of two per cent, they shall still be liable to the levy of a single-point tax as from the date on which the Act comes into force. They will be deemed first sales. Otherwise even now all the commodities mentioned in the First Schedule will be cornered. For six months nobody will sell any commodity mentioned in the First Schedule. There would be such a serious disturbance in the trade.

5-40 p.m. Sir, I have tried to bring to bear on this Bill, not so much the question of incidence on the consumer, not even so much the question of relief to the traders, but a great amount of attention on

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the progress and prosperity of trade in this State. Whatever suggestion was given in order to preserve the trade in the State, we accepted it in the Select Committee. Now, anything which is likely to disturb the trade in this State has got to be carefully guarded against and power is taken in that behalf. It is really an extraordinary power. But I can assure the House that the power will not be used lightly, but will be used only in the interests of the trade itself, when it has to be used. Therefore, Sir, I submit that even though this Bill appears to be giving a blanket power, it is necessary in the interests of the trade itself to have that power in order that quick changes may be made by notification for the purpose of preserving the trade of this State. Sir, I do not want to labour the point any further. I have endeavoured to show that the general apprehension about it, though on an initial reading it would be justified, will not deter the House from passing the clause in the light of the explanation which I have given now.

Sir, there are a number of other points which have been raised. My hon. Friend Dr. Sivanandam pleaded that X-ray should be exempted from this tax. In all these matters, representation could be made to the Government. The only thing I want to state categorically is that as Minister in charge of Sales Tax, I have not received any complaint from any responsible Member of the Legislature that the sales tax authorities have gone out of the way and harassed the people for the purpose of making them pay for the Small Savings Scheme. I venture to submit that it is the duty of Members of the Legislature as well as other responsible people to bring to the notice of the Government, if any misguided officer in his enthusiasm is crossing his powers of legitimate duty. Therefore, I would only urge that the House should not draw any inference from any stray cases which might have occurred somewhere.

Lastly, Sir, I want to reply to my esteemed Friend Mr. Purushotham. He took objection to the description of the Members of this House in the Committee as 'invitees' and said that they were entitled to be styled Members of the Joint Select Committee. On a Finance Bill like this, Sir, both on precedent and in theory, it is not correct and I do not want to say anything more than that. But I can assure the House that I am very anxious to preserve the rights of this House on every matter in which the Members have both statutorily and by convention a place. At the same time, I do not want also to infringe any other established rights and constitutional precedents.

Sir, I am thankful to the House for the general support they have given me and I request that the motion may be accepted.

MR. CHAIRMAN : The question is—

'That the Madras General Sales Tax Bill, 1959 (L.A. Bill No. 6 of 1958), as passed by the Legislative Assembly, be taken into consideration.'

The motion was put and carried.

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MR. CHAIRMAN : Shall we proceed with the clause-by-clause consideration now?

SRI T. PURUSHOTHAM : Sir, have we got any further work or are we adjourning to-morrow evening?

MR. CHAIRMAN : No other Bill has yet been transmitted to us from the Assembly. If we dispose of this Bill, there will not be any other work.

* THE HON. SRI R. VENKATARAMAN : Sir, may I suggest that we may go through the clauses of the Bill in a fairly leisurely manner scrutinizing every clause carefully so that we may not rush through it, as we might have to if we had only one day?

MR. CHAIRMAN : I hope that is accepted.

The House will now adjourn and meet again at 3 p.m. to-morrow.

The House then adjourned.

III.—PAPER LAID ON THE TABLE OF THE HOUSE.

* 109. *A short report on the activities of the Government Museum and National Art Gallery, Madras, and Government Museum, Pudukkottai, for the first half-year* 1958–59.

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* Laid on the table of the House on 17th February 1959.